

Serial No. 09/709,233
Amendment After Final dated October 6, 2006
In response to Final Office Action dated April 6, 2006

Art Unit: 3626

REMARKS

Claims 22-42 are in the application.

New claim 43 has been added.

Claims 22-43 are currently pending in the application.

Applicants wish to point out that an interview of April 5, 2005 was conducted between Examiner Kalinowski, inventor Dr. Richard Miller, and attorneys Paul Greeley and Dwight Renfrew. During that interview, the reasons for the invention's patentability over the prior art were explained. Applicants request that the Examiner consult with Examiner Kalinowski regarding this interview.

Particularly, Dr. Miller explained that the patient-specific model constructed by the system of the invention is not disclosed, taught, or suggested by the cited references. This explanation is provided below in more detail.

Claims 22-27, 29 and 32-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent no. 5,031,161 to Kendrick, hereinafter "Kendrick", in view of US patent no. 5,692,501 to Minturn, hereinafter "Minturn". Applicants respectfully traverse this rejection.

Kendrick discloses a wristwatch 10 including a display 14 that has a bank of segments to display the amount of time remaining in a person's life (col. 2, lines 28-34).

Buttons 28, 30, 32 and 34 are used respectively: to set the digits in each of the fields; to run or to stop the system from counting down; to increment the value in the selected field; and to decrement the value in the selected field (col. 2, lines 49-56).

Registers 56a-56e, which represent year, day, hour minute and second, can be initially set at an initial remaining time value by using an actuarial table that predicts life expectancy based on a person's age (col. 4, lines 1-17). Shifting of the projected lifespan can be done manually by the user, or the watch 10 may contain an algorithm programmed into a processor 50 that will automatically adjust the projected life expectancy of the individual every day, week or month (col. 4, lines 17-22). Registers 56a-56e can also be reset based upon data in a health factor Table II (col. 5, lines 54-55). A separate display or one of existing displays 14, 15 can be used to question the individual as to the various health factors (col. 6, lines 29-32). The questioning display can be invoked by pressing both UP and DOWN buttons 32 and 34, simultaneously (col. 6, lines 32-34). A menu of such questions, based on the factors included in Table II above, is preprogrammed, residing in RAM 56 under control of processor 50 (col. 6, lines 34-37).

Kendrick discloses determining or re-setting life expectancy based on actuarial data or generic health factors, such as factors shown in tables I and II. Such factors, and their influence on life expectancy, are derived from a determination of an average or ideally healthy person, and are applied to all patients regardless of that patient's individual circumstances.

These factors do not take into account individual differences between patients, and therefore do not accurately reflect the impact that a particular health factor may

have on different patients or groups of patients. Therefore, the health factors **are not patient-specific**.

In contrast, the present invention creates a model that is user-specific, and determines the effect of a particular factor on a patient based on that patient's specific health profile or history. A computer memory stores a patient's health profile data, from which a patient-specific model is determined that includes importance factors assigned to specific health data elements. In this way, the effect of a given health element or factor can be determined based on that particular patient. This is distinct from Kendrick, which discloses health factors that are assigned the same effect on life expectancy for all patients.

The following is an example illustrating this difference between Kendrick and the invention as provided in claim 22.

The generic health factor data in Table II of Kendrick prescribes an effect on life expectancy for each factor regardless of the individual patient. For example, Table II of Kendrick provides that all patients will have the same effect on life expectancy based on parents' age. In contrast, as described in the example in the specification at page 9, line 16 – page 10, line 4, the microprocessor of the present invention assigns an initial effect on life expectancy based on a "perfect" genetic factor. The microprocessor then utilizes other health factors to adjust the actual genetic effect on life expectancy based on the patient's actual health data.

The present invention is superior, in that, by providing more accurate effects on the life expectancy of a particular patient due to various factors, that patient can choose

the most ideal interactive measures to most effectively increase his or her life expectancy.

Accordingly, Kendrick does not disclose, teach or suggest:

"a computer memory storing (i) health profile data comprising medical history data describing said patient, and (ii) a patient-specific life expectancy potential (LEP) model determined in dependence on said patient's stored health profile and comprising life expectancies for said patient and life expectancy importance factors assigned to specific health profile data elements."

Minturn discloses gathering participant data and comparing that data to an optimal health/fitness database, to objectively measure categories of scientific wellness and risk levels on a series of 10-point scales (col. 12, lines 48-52). Minturn does not disclose, teach, or suggest **modeling life expectancy** instead of wellness, and further does not disclose, teach, or suggest **a patient-specific model**.

The Office Action relies on Minturn merely for disclosing a computer storing a health profile database.

However, Minturn does not disclose, teach, or suggest:

" a computer memory storing (i) health profile data comprising medical history data describing said patient, and (ii) a patient-specific life expectancy potential (LEP) model determined in dependence on said patient's stored health profile and comprising life expectancies for said patient and life expectancy importance factors assigned to specific health profile data elements."

Neither Kendrick nor Minturn disclose, teach, or suggest:

"a computer memory storing (i) health profile data comprising medical history data describing said patient, and (ii) a patient-specific life expectancy potential (LEP) model determined in dependence on said patient's stored health profile and comprising life expectancies for said patient and life expectancy importance factors assigned to specific health profile data elements."

Therefore, Kendrick and Minturn, whether considered alone or in combination, do not disclose, teach, or suggest the elements of claim 22. Thus, claim 22 is patentable over the cited combination of Kendrick and Minturn.

Independent claims 29, 33 and 41 include recitals similar to claim 1. For at least reasoning similar to that provided in support of the patentability of claim 22, claims 29, 33 and 41 are patentable over the cited combination of Kendrick and Minturn.

Claims 23-27 depend from claim 22, claim 32 depends from claim 29, claims 34-40 depend from claim 33, and claim 42 depends from claim 41. For at least reasoning similar to that provided in support of the patentability of claims 22, 29, 33 and 41, claims 23-27, 32, 34-40 and 42 are patentable over the cited combination of Kendrick and Minturn.

For the reasons set forth herein above, the rejection of claims 22-27, 29 and 32-42 under 35 U.S.C. 103(a) as unpatentable over Kendrick in view of Minturn is overcome. Accordingly, Applicants respectfully request that claims 22-27, 29 and 32-42 be reconsidered and the rejection thereof withdrawn.

Claims 28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kendrick in view of Minturn, and further in view of US patent no. 5,867,821 to Ballantyne, hereinafter "Ballantyne". Applicants respectfully traverse this rejection.

Applicants respectfully submit that Ballantyne does not make up for the deficiencies of Kendrick and Minturn, as they apply to claims 22 and 29. Therefore, claims 22 and 29 are patentable over the cited combination of Kendrick, Minturn and Ballantyne.

Claim 28 depends from claim 22, and claim 30 depends from claim 29 and, as such, and for at least the reasons provided in support of the patentability of claims 22 and 29, claims 28 and 30 are patentable over the cited combination of Kendrick, Minturn and Ballantyne.

Accordingly, Applicants respectfully request that claims 28 and 30 be reconsidered and the rejection thereof withdrawn.

Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kendrick in view of Minturn and Ballantyne, and further in view of US patent no. 5,193,855 to Shamos, hereinafter "Shamos".

Applicants respectfully submit that Shamos does not make up for the deficiencies of Kendrick, Minturn and Ballantyne, as they apply to claim 29. Therefore, claim 29 is patentable over the cited combination of Kendrick, Minturn, Ballantyne and Shamos.

Claim 31 depends from claim 29 and, as such, and for at least the reasons provided in support of the patentability of claim 29, claim 31 is patentable over the cited

Serial No. 09/709,233

Art Unit: 3626

Amendment After Final dated October 6, 2006

In response to Final Office Action dated April 6, 2006

combination of Kendrick, Minturn, Ballantyne and Shamos.

Accordingly, Applicants respectfully request that claim 31 be reconsidered and the rejection thereof be withdrawn.

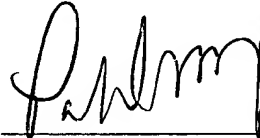
New claim 43 depends from allowable claim 22 and, as such, is also allowable.

In view of the foregoing, Applicants respectfully request an indication of the allowability of all pending claims by issuance of a Notice of Allowability.

Respectfully submitted,

Date: October 6, 2006

By:



Paul D. Greeley
Reg. No. 31,019
Attorney for Applicant
Ohlandt, Greeley, Ruggiero & Perle, LLP
One Landmark Square, 10th Floor
Stamford, CT 06901-2682
Tel: (203) 327-4500
Fax: (203) 327-6401